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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

LOUIS MELILLO, PLAINTIFF, v. ELIZABETH BOARD OF EDUCATION, PABLO MUÑOZ, individually and in his official capacity as superintendent of schools, CARLOS TRUJILLO, individually and in his official capacity as board member and past President, MARIE MUNN, individually and in her official capacity as board president and past vice president, PASTOR RAÚL BURGOS, individually and in his official capacity as board member, ELCY CASTILLO-OSPINA, individually and in his official capacity as board member, ARMANDO DA SILVA, individually and in his official capacity as board member, JOHN DONOSO, individually and in his official capacity as board member, FRANCISCO GONZÁLEZ, individually and in his official capacity as board member, FERNANDO NAZCO, individually and in his official capacity as vice president and past board member, PAUL M. PERREIRA, individually and in his official capacity as board member, KAREN A. MURRAY, individually and in her official capacity as Executive Director for Human Resources, JOHN/JANE DOES 1- 10 (fictitious names representing past Board of Education members, names unknown), ABC Corporations 1-10 (fictitious names representing unknown entities), and JOHN/JANE DOES 11-30 (fictitious names representing unknown persons), DEFENDANTS.	**CIVIL ACTION** DOCKET NO.:

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, **LOUIS MELILLO** ("Plaintiff"), State of New Jersey, complaining of Defendants, states:

FIRST COUNT: §1983 CLAIM FOR VIOLATION OF FIRST AMENDMENT RIGHT TO FREEDOM OF SPEECH OF GOVERNMENT EMPLOYEE

1. The street and post office address of Plaintiff **LOUIS MELILLO** is 815 4th Avenue, Elizabeth, NJ.

   Upon information and belief, the principle place of business of Defendant **ELIZABETH BOARD OF EDUCATION** is 500 North Broad Street, Elizabeth, NJ.

   Upon information and belief, the street and post office address of Defendant **PABLO MUÑOZ** is 7 Fleming Terrace, Maplewood, NJ.

   Upon information and belief, the street and post office address of Defendant **CARLOS TRUJILLO** is 116 Fulton Street, Elizabeth, NJ.

   Upon information and belief, the street and post office address of Defendant **MARIE MUNN** is 8 Country Club Lane, Elizabeth, NJ.

   Upon information and belief, the street and post office address of Defendant **PASTOR RAÚL BURGOS** is 1121 Elizabeth Avenue, Elizabeth, NJ.

   Upon information and belief, the street and post office address of Defendant **ELCY CASTILLO-OSPINA** is 937 Stanton Ave, Unit 8, Elizabeth, NJ.

Upon information and belief, the street and post office address of Defendant **ARMANDO DA SILVA** is 28 Alina St, Apt 8, Elizabeth, NJ.

Upon information and belief, the street and post office address of Defendant **JOHN DONOSO** is 216 Lincoln avenue, Apt 1, Elizabeth, NJ.

Upon information and belief, the street and post office address of Defendant **FRANCISCO GONZÁLEZ** is 437 Murray Street, Elizabeth, NJ 07202.

Upon information and belief, the street and post office address of Defendant **FERNANDO NAZCO** is 71 Palisade Rd. 7A, Elizabeth, NJ.

Upon information and belief, the street and post office address of Defendant **PAUL M. PERREIRA** is 730 Spring Street, Elizabeth, New Jersey.

Upon information and belief, the street and post office address of Defendant **KAREN A. MURRAY** is 4 Shadowbrook Drive, Colts Neck, NJ.

Upon information and belief, the street and post office addresses and/or principle places of business of the fictitiously named Defendants are currently unknown.

2. **Statement of Subject-Matter Jurisdiction:** This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question) in that the claims herein arise under 42 U.S.C. §1983 (Civil Rights Act) relating to Plaintiff's rights under the First Amendment of the United States

Constitution, 18 U.S.C. §1964 (RICO), and 42 U.S.C. §1985, as more fully set forth below. The state law causes of action are grounded in the same facts as the Federal questions and so related to the federal claims as to be inseparable.

3. **Statement of Personal jurisdiction:** All known and above-named defendants reside in and may be found in the State of New Jersey and are within the jurisdiction of this District.

4. **Statement of Venue:** Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and (c) in that the known individual defendants reside in and may be found in this district and, further, that all or at least a substantial part of the events or omissions giving rise to the claims occurred in this District. **It is anticipated that this matter will be assigned to the Newark vicinage.**

5. Plaintiff **LOUIS MELILLO** is an individual who is a citizen of the State of New Jersey and a resident of Union County therein.

6. Upon information and belief, Defendant **ELIZABETH BOARD OF EDUCATION** is a governmental entity that is a subdivision of the body politic of the State of New Jersey and functions as the board of education in the city of Elizabeth, county of Union, New Jersey.

7. Upon information and belief, Defendant **PABLO MUÑOZ** is an individual who is a citizen of the State of New Jersey and a resident of Essex County therein.

8. Upon information and belief, Defendant **CARLOS TRUJILLO** is an individual who is a citizen of the State of New Jersey and a resident of Union County therein.

9. Upon information and belief, Defendant **MARIE MUNN** is an individual who is citizen of the State of New Jersey and a resident of Union County therein.

10. Upon information and belief, Defendant **PASTOR RAÚL BURGOS** is an individual who is citizen of the State of New Jersey and a resident of Union County therein.

11. Upon information and belief, Defendant **ELCY CASTILLO-OSPINA** is an individual who is citizen of the State of New Jersey and a resident of therein.

12. Upon information and belief, Defendant **ARMANDO DA SILVA** is an individual who is citizen of the State of New Jersey and a resident of Union County therein.

13. Upon information and belief, Defendant **JOHN DONOSO** is an individual who is a citizen of the State of New Jersey and a resident of Union County therein.

14. Upon information and belief, Defendant **FRANCISCO GONZÁLEZ** is an individual who is a citizen of the State of New Jersey and a resident of Union County therein.

15. Upon information and belief, Defendant **FERNANDO NAZCO** is an individual who is a citizen of the State of New Jersey and a resident of Union County therein.

16. Upon information and belief, Defendant **PAUL M. PERREIRA** is an individual who is a citizen of the State of New Jersey and a resident of Union County therein.

17. Upon information and belief, Defendant **KAREN A. MURRAY** is an individual who is a citizen of the State of New Jersey and a resident of Monmouth County therein.

18. Upon information and belief, the citizenship and residences of the fictitiously named Defendants are currently unknown. Because subject matter jurisdiction is not based on diversity jurisdiction, their citizenship and places of residence will not affect jurisdiction.

19. This lawsuit arises out of Defendants' malicious, illegal, vindictive and coordinated efforts to deprive Plaintiff of his public employment, to discriminate against him in the terms and conditions of his public employment, to expose him to civil and criminal liability as a sex offender, and to have him added to the New Jersey registry of child abusers, to humiliate, denigrate, disparage and defame him.

20. Upon information and belief, all actions of the Board were approved by the individual board members serving at the time, as required by law.

21. Upon information and belief, actions of the Board implementing the discrimination against Plaintiff were ordered and/or carried out by **PABLO MUÑOZ** and **KAREN A. MURRAY**, and JOHN/Jane DOES 11-30 consistent with the duties of their offices and correspondence received from them.

22. In 2004, Plaintiff was a tenured head custodian at School No. 17, Theodore Roosevelt Elementary School, 650 Bayway Ave, Elizabeth, NJ 07202.

23. While on duty during 2004 at Plaintiff was requested to make political contributions by representatives of the Defendant Elizabeth Board of Education ("the Board").

24. Plaintiff was told that making political contributions to the Board would be good for his career.

25. Plaintiff initially made political contributions, as requested by the individual Board members named as defendants herein, and was promoted to head custodian.

26. However, thereafter Plaintiff declined to make the requested political contributions.

27. Upon information and belief, past and current members of the Board and its individual members have a policy of pressuring and coercing employees of the Board to make political contributions and retaliating against those who do not do so, as discussed in news articles.

28. Upon information and belief, past and current members of the Board who participated in this discrimination include **CARLOS TRUJILLO**, **MARIE MUNN**, **PASTOR RAÚL BURGOS**, **ELCY CASTILLO-OSPINA**, **ARMANDO DA SILVA**, **JOHN DONOSO**, **FRANCISCO GONZÁLEZ**, **FERNANDO NAZCO**, **PAUL M. PERREIRA**, and JOHN/JANE DOES 1- 10 (fictitious names representing past Board of Education members, names unknown). The above-named individual Defendants are elected government officials whose actions are performed under color of law. These

individuals solicited and expected contributions from Plaintiff in his capacity as Board employee, and they directed and ratified the actions of **PABLO MUÑOZ** and **KAREN A. MURRAY** in implementing the actions taken against Plaintiff, in many cases by public vote. Defendants **PABLO MUÑOZ** and **KAREN A. MURRAY** are appointed government officials whose actions are performed under color of law.

29. During the summer of 2004, Plaintiff supervised student workers performing custodial work.

30. On or about July 13, 2004, Plaintiff dismissed the student workers early from work for failure to perform their custodial duties.

31. On or about July 13, 2004 or directly thereafter, after Plaintiff had sent student workers home for failure to perform their custodial duties, employees of the Board conspired with the students to trump up criminal charges against Plaintiff based on the students' fabricated testimony.

32. These charges were an attempt discriminate against Plaintiff, to deprive Plaintiff of his employment contrary to his statutory, regulatory, and contractual employment rights and to punish him for failing to make political contributions in violation of his right to free speech.

33. The Board has consistently used the legal process to harass and to attempt to intimidate Plaintiff into forfeiting his employment and pension, as discussed further below.

34. Plaintiff's supervisor at the time allowed the student workers, the alleged'victims', to record the alleged crime in a manner conducive to successfully fabricating evidence.

35. Upon information and belief, during the next approximately two weeks representatives of the **ELIZABETH BOARD OF EDUCATION** met with Plaintiff's accusers and assisted them in adding to and elaborating their false testimony.

36. This was done with a view toward and part of a concerted plan to successfully fabricate evidence against Plaintiff in order to successfully prosecute him, with consequent forfeiture of his employment and pension.

37. Upon information and belief, this was done purposely with the goal to deprive Plaintiff of his employment and pension in furtherance of the Board's objectives of retaliating against Plaintiff for declining to make further political contributions.

38. A Board employee or employees then informed the police that Plaintiff had engaged in criminal sexual contact and related crimes with the student

workers, which allegations were based on the student workers' fabricated testimony.

39. The Board subsequently brought tenure charges against Plaintiff and suspended him without pay.

40. These actions were based on Plaintiff's refusal to make political contributions and constituted retaliation for same.

41. Plaintiff was also indicted in Indictment no. 04-12-01311 for charges with a potential sentence of 15 years of incarceration and possible classification as a sex offender.

42. Plaintiff was not allowed to work during the pendency of the various charges and proceedings against him and stigmatized as a sex offender during their pendency.

43. Subsequently, the Board refused to allow employees to talk with the private investigator conducting Plaintiff's defense in the criminal prosecution, out of fear that the falsity of the manufactured testimony would become apparent.

44. However, nonetheless at his criminal trial the inconsistencies in the manufactured testimony showed the trumped up and contrived nature of the charges against Plaintiff.

45. On or about September 27, 2005, Plaintiff was found not guilty of all charges at trial following at the close of the State's case.

46. The judge who was conducting the bench trial stated that the State, which was required to prove its case beyond a reasonable doubt, had not even proved its case by the civil standard of preponderance of the evidence.

47. Following Plaintiff's acquittal on the criminal charges, and despite the trial judge's findings, the Board sought and obtained from DYFS a finding of sexual abuse on November 7, 2005, before the order entering the acquittal of Plaintiff was recorded.

48. Following Plaintiff's acquittal, the Board also changed his unpaid suspension to a paid suspension, showing it was aware of the acquittal.

49. The Board subsequently failed to pay Plaintiff's criminal defense attorney for the costs of Plaintiff's defense, as required by New Jersey law.

50. To date, almost seven years after the criminal charges were resolved in Plaintiff's favor and after a settlement agreement to pay has been entered in the criminal defense attorney's favor in an administrative proceeding, the Board still has not paid Plaintiff's criminal defense attorney.

51. On June 29, 2007, following Plaintiff's appeal of its finding of abuse and its review of criminal trial materials, DYFS modified its findings to determine that the allegations of sexual abuse were not substantiated.

52. During this period, the Board repeatedly withheld Plaintiff's pay increment because of his pending tenure charges.

53. During this period, the Board also repeatedly delayed the hearing to increase pressure on Plaintiff and prolong the reputational damage engendered by the pending charges.

54. When the administrative hearing was held, further and more extensive inconsistencies in the manufactured testimony of the witnesses for the Board again showed the trumped up and contrived nature of the charges against Plaintiff.

55. Defendant **KAREN A. MURRAY** serves the Board in two capacities. She acts executive director of human resources and she acts an attorney who prosecutes labor cases.

56. In her capacity as director of human resources, she was instrumental in pursuing administrative action and harassment against Plaintiff.

57. For example, on March 5, 2010, the Board, in relation to Ms. Murray's capacity as director of human resources, advised Plaintiff that on March 8,

2010 he was ordered to report to a rubber room across from Ms. Murray's office to be supervised by her for the term of his suspension.

58. March 8, 2010 was the day Plaintiff's cross examination by Karen A. Murray, Esq. was scheduled to begin in the hearing on tenure charges.

59. This directive was made for the purpose of harassing and intimidating Plaintiff and to secure an unfair advantage in litigation.

60. The directive was only not enforced when declared illegitimate by the administrative law judge on March 8, 2010 in open court at Plaintiff's hearing directly before he took the stand after objection by Plaintiff's counsel in the administrative proceeding.

61. On September 20, 2010, the administrative law judge found that the Board had not sustained its burden of proof and dismissed the tenure charges against Plaintiff.

62. On November 4, 2010, the acting commissioner of education upheld the administrative law judge's decision.

63. After further administrative proceedings, the Board appealed the decision.

64. On June 1, 2011, Plaintiff was ordered to return to work by **KAREN A. MURRAY** in her capacity as Executive Director for Human Resources.

65. Upon information and belief, the actions of **KAREN A. MURRAY** were discussed with, overseen by, and ratified by **PABLO MUÑOZ** in his capacity as chief executive official of the **ELIZABETH BOARD OF EDUCATION**.

66. Averse actions were also taken against Plaintiff by **PABLO MUÑOZ** in his capacity as chief executive official of the **ELIZABETH BOARD OF EDUCATION** directly, as evidenced by correspondence therefrom.

67. Upon information and belief, these actions implemented a decision by the individual Board members as counseled and implemented by Mr. Munoz and Ms. Murray to retaliate against Plaintiff for ceasing to make political contributions.

68. Plaintiff was not returned to his former position as head custodian, to his former shift, or to his former pay.

69. Instead Plaintiff was assigned, as a regular custodian, to an evening shift at a worse and more dangerous school, the Thomas A. Edison Career & Technical Academy, and continues to be paid at his 2004 rate.

70. These acts constitute continuing discrimination against Plaintiff in the terms and conditions of his employment.

71. Upon information and belief, ABC Corporations 1-10 (fictitious names representing unknown entities), and JOHN/JANE DOES 11-30 (fictitious names representing unknown persons) are also involved in this process and involved in discrimination against Plaintiff.

72. As such, the Board continues its vindictive rampage against Plaintiff to the fullest extent possible given prior court and administrative decisions invalidating its past actions. Its current actions are a continuation of its past actions, which show it intentionally perseveres in discriminating against Plaintiff as a result of his decision not to make political contributions and seeks to create a hostile work environment for Plaintiff.

73. These changes in the terms and conditions of Plaintiff's employment constitute continuing discrimination against Plaintiff, continuing violation of Plaintiff's statutory, regulatory, and contractual employment rights and continued punishment of Plaintiff for failing to make political contributions in violation of his right to free speech.

74. As a result of these violations, Plaintiff has suffered financial loss, emotional anguish, loss of enjoyment of life, loss of reputation, and related damages which continue to cause Plaintiff stigma and emotional and reputational injury.

WHEREFORE, Plaintiff **LOUIS MELILLO** demands judgment against Defendants **ELIZABETH BOARD OF EDUCATION**, **PABLO MUÑOZ**, individually and in his official capacity as superintendent of schools, **CARLOS TRUJILLO**, individually and in his official capacity as board member and past President, **MARIE MUNN**, individually and in her official capacity as board president and past vice president, **PASTOR RAÚL BURGOS**, individually and in his official capacity as board member, **ELCY CASTILLO-OSPINA**, individually and in his official capacity as board member, **ARMANDO DA SILVA**, individually and in his official capacity as board member, **JOHN DONOSO**, individually and in his official capacity as board member, **FRANCISCO GONZÁLEZ**, individually and in his official capacity as board member, **FERNANDO NAZCO**, individually and in his official capacity as vice president and past board member, **PAUL M. PERREIRA**, individually and in his official capacity as board member, **KAREN A. MURRAY**, individually and in her official capacity as Executive Director for Human Resources, JOHN/JANE DOES 1- 10 (fictitious names representing Past Board of Education members, names unknown), ABC Corporations 1-10 (fictitious names representing unknown entities), and JOHN/JANE DOES 11-30 (fictitious names representing unknown persons) (the above defendants together referred to as “Defendants”), jointly, severally, or in the alternative singly and individually for damages, including costs and attorney's fees, together with lawful interest, plus costs of suit and fees on the First Count.

SECOND COUNT: VIOLATION OF THE NEW JERSEY CIVIL RIGHTS ACT

75. Plaintiff **LOUIS MELILLO** repeats and reiterates the allegations set forth in the First Count and makes them, by reference hereto, a part hereof and incorporated herein as though set forth in full and at length.

76. The above-described actions of Defendants were motivated in part by Plaintiff's political views, that is, his failure to make political contributions to Defendants, which are guaranteed under his rights to freedom of speech and association under the First and Fourteenth Amendments of the Federal Constitution, N.J. Const. 1:6, and N.J. Const. 1:18.

77. In relation to this, Defendants acted with the intent to deprive Plaintiff of his above rights and in retaliation for his perceived exercise thereof.

78. As a government entity or as agents of a government entity acting with power delegated to them under State and local statutes and regulations, Defendants acted under color of law.

WHEREFORE, Plaintiff **LOUIS MELILLO** demands judgment against Defendants jointly, severally, or in the alternative singly and individually for compensatory and consequential damages, attorney's fees and pre-judgment interest pursuant to N.J.S.A. 10:6-2(f), an appropriate civil penalty pursuant to N.J.S.A. 10:16-2(e); and an award of such other and further relief as the Court may deem just, equitable, and fair.

THIRD COUNT: VIOLATION OF TERMS OF EMPLOYMENT, INCLUDING STATUTORY PROTECTIONS AND SCHOOL POLICY, RULES AND REGULATIONS, AND BOARD POLICY MANUAL

79. Plaintiff **LOUIS MELILLO** repeats and reiterates the allegations set forth in the First and Second Count and makes them, by reference hereto, a part hereof and incorporated herein as though set forth in full and at length.

80. Defendants actions in demoting, reassigning and eventually terminating Plaintiff for the reasons stated in Count 7 are in violation of Plaintiff's statutory protections that are part of the terms of his employment, including but not limited to N.J.S.A. 18A:17-3 and N.J.A.C. 4A:2-5.1(b).

81. Defendants' actions in demoting, reassigning and eventually terminating Plaintiff for the reasons stated in preceding counts also violate Board Policy Manual sections including but not limited to 4118.2, 4219.21, and 4218.2, guaranteeing freedom of speech of employees and absence of political

interference or repercussions for political views, upon which Plaintiff reasonably relied.

WHEREFORE, Plaintiff **LOUIS MELILLO** demands judgment against Defendants jointly, severally, or in the alternative singly and individually for compensatory and consequential damages, attorney's fees and pre-judgment interest, and an award of such other and further relief as the Court may deem just, equitable, and fair.

FOURTH COUNT: COMMON LAW MALICIOUS PROSECUTION / MALICIOUS USE OF PROCESS

82. Plaintiff **LOUIS MELILLO** repeats and reiterates the allegations set forth in the First through Third Counts and makes them, by reference hereto, a part hereof and incorporated herein as though set forth in full and at length.

83. As a result of the criminal and administrative charges discussed above, Plaintiff suffered interference with his liberty and property.

84. Plaintiff suffered and continues to suffer interference with his constitutional right to freedom of speech.

85. Plaintiff suffered interference with his liberty to remain free from jail.

86. Plaintiff suffered interference with his liberty by being falsely labeled a child abuser who sexually abused children, which restricted his employment

opportunities including making him ineligible for his government employment as a school custodian.

87. These actions were brought without reasonable or probable cause because they were based on obviously false and fabricated testimony, whose fabrication was encouraged, and, in some instances, participated in and buttressed by individual defendants acting as employees of Defendant **ELIZABETH BOARD OF EDUCATION**. As such, Defendants knew or should of known of the testimony's falsity but proceeded anyway with numerous actions at great length, expense, and severe personal cost to Plaintiff.

88. These actions were actuated by overt malice and done with the purpose to harm Plaintiff for the reasons stated in preceding counts.

89. These actions all terminated favorably to Plaintiff, and generally only after trial or trial-type hearing.

WHEREFORE, Plaintiff **LOUIS MELILLO** demands judgment against Defendants jointly, severally, or in the alternative singly and individually for damages, including costs and attorney's fees to defend the underlying actions, together with lawful interest, plus costs of suit and fees on the Second Count.

FIFTH COUNT: COMMON LAW MALICIOUS ABUSE OF PROCESS

90. Plaintiff **LOUIS MELILLO** repeats and reiterates the allegations set forth in the First through Fourth Counts and makes them, by reference hereto, a part hereof and incorporated herein as though set forth in full and at length.

91. Defendant **ELIZABETH BOARD OF EDUCATION** and its employees or agents, specifically including **PABLO MUNOZ** and **KAREN A. MURRAY**, and JOHN/JANE DOES 11-30 perverted the litigation process against Plaintiff in order to harass and in an attempt to intimidate Plaintiff.

92. These further actions included unduly protracting litigation, assigning Plaintiff to a rubber room on the day his cross examination was scheduled to commence, blocking Plaintiff's admission into Pretrial Intervention ("PTI") in the criminal matter, and filing a DYFS complaint after Plaintiff's acquittal of criminal charges.

93. These actions reflected an ongoing and continuous pattern of harassment throughout the course of litigation.

WHEREFORE, Plaintiff **LOUIS MELILLO** demands judgment against Defendants jointly, severally, or in the alternative singly and individually for damages, including costs and attorney's fees to defend the underlying actions, together with lawful interest, plus costs of suit and fees on the Third Count.

SIXTH COUNT: CIVIL LIABILITY FOR CONSPIRACY CONTRARY TO N.J.S.A. 2C:41-1 ET SEQ. ("NJ RICO")

94. Plaintiff **LOUIS MELILLO** repeats and reiterates the allegations set forth in the First through Sixth Counts and makes them, by reference hereto, a part hereof and incorporated herein as though set forth in full and at length.

95. Soliciting political contributions in exchange for favors was an attempt at bribery and constituted a pattern of racketeering activity.

96. Retaliation for failure to provide political contributions was an attempt at extortion and constituted a pattern of racketeering activity.

97. The retaliation against Plaintiff was a conspiracy in furtherance of these predicate acts, and as such a RICO enterprise as defined under New Jersey RICO law.

98. Upon information and belief, The Elizabeth Board of Education, which employs approximately 4000 people and has a yearly budget of approximately $400 million that includes substantial purchases of food and school supplies, is engaged in activities that affect trade or commerce.

99. Defendants CARLOS TRUJILLO, MARIE MUNN, PASTOR RAÚL BURGOS, ELCY CASTILLO-OSPINA, ARMANDO DA SILVA, JOHN DONOSO, FRANCISCO GONZÁLEZ, FERNANDO NAZCO, PAUL M.

PERREIRA, and JOHN/JANE DOES 1- 10, used the a pattern of racketeering activity to acquire and maintain, an interest in or control of the Elizabeth Board of Education as board members.

100. Together, the corrupt board members were the ELIZABETH BOARD OF EDUCATION.

101. PABLO MUÑOZ, KAREN A. MURRAY used the a pattern of racketeering activity to maintain their an interest in or control of the Elizabeth Board of Education as executives thereof.

102. Defendant employees PABLO MUÑOZ, KAREN A. MURRAY, and JOHN/JANE DOES 11-30, participated, directly or indirectly, in the conduct of the enterprise's affairs through a pattern of racketeering activity by participating in the conspiracy to retaliate against Plaintiff for exercising his right to free speech by declining to make political contributions.

103. The attacks on Plaintiff took coordination, and all defendants conspired as defined by N.J.S.A. 2C:5-2, to violate any of the provisions of N.J.S.A. 2C:41-1 et seq.

WHEREFORE, Plaintiff **LOUIS MELILLO** demands judgment against Defendants jointly, severally, or in the alternative singly and individually for damages, treble damages of loss sustained and the cost of the suit, including a reasonable attorney's fee, costs of investigation and litigation., together with lawful interest, plus costs of suit and fees on the Fifth Count.

SEVENTH COUNT: CIVIL LIABILITY FOR CONSPIRACY CONTRARY TO 18 U.S.C. § 1962 ("RICO")

104. Plaintiff **LOUIS MELILLO** repeats and reiterates the allegations set forth in the First through Seventh Counts and makes them, by reference hereto, a part hereof and incorporated herein as though set forth in full and at length.

105. Federal RICO law also prohibits maintaining influence by bribery and extortion.

106. Federal RICO law is violated by the same facts that establish violation of NJ RICO.

WHEREFORE, Plaintiff **LOUIS MELILLO** demands judgment against Defendants jointly, severally, or in the alternative singly and individually for damages, treble damages of loss sustained and the cost of the suit, including a reasonable attorney's fee, costs of investigation and litigation, together with lawful interest, plus costs of suit and fees on the Fifth Count.

EIGHTH COUNT: DISPARATE TREATMENT DUE TO DISABILITY IN VIOLATION OF N.J.S.A. 10:5-1 ET SEQ. ("LAD")

107. Plaintiff **LOUIS MELILLO** repeats and reiterates the allegations set forth in the First through Seventh Counts and makes them, by reference hereto, a part hereof and incorporated herein as though set forth in full and at length.

108. Plaintiff was disabled within the meaning of the LAD in that he had a serious illness of long duration.

109. One of the more obvious outward manifestations of this illness is a secondary effect that it caused him to itch in his personal regions during hot weather secondary to heat rash caused by the condition.

110. Plaintiff had performed his duties at a level that complied, comported with, and even exceeded his employer's legitimate expectations, and, in fact, had positive reviews in his personnel file.

111. Plaintiff nevertheless was subject to the adverse job actions described in previous Counts, for some of which his employer cited his health condition as justification, which continued after his employer became aware of the cause and nature of his health condition.

112. Upon information and belief, Defendants sought another head custodian at School No. 17 to perform the same work after Plaintiff had been removed from the position, who did not have Plaintiff's health condition.

113. By reason of the actions complained of, Plaintiff has suffered damages, including reduction in wages, other economic loss, physical injury, pain and suffering, physical and emotional stress, career, personal, and social disruption and damage to his reputation.

114. The Defendants' actions, which constitute egregious behavior and/or willful indifference to the rights of Plaintiff and other employees of Defendants, are sufficient to subject Defendants to punitive damages under the LAD and Lehman v. Toys-R-Us.

WHEREFORE, Plaintiff **LOUIS MELILLO** demands judgment against Defendant **ELIZABETH BOARD OF EDUCATION** jointly, severally, or in the alternative singly and individually for compensatory and consequential damages, punitive damages, attorney's fees with appropriate enhancement under Rendine v. Pantzer, 141 N.J. 292 (1995); costs of suit, pre-judgment interest; and an award of such other and further relief as the Court may deem just, equitable, and fair.

NINTH COUNT: HOSTILE WORK ENVIRONMENT DUE TO DISABILITY IN VIOLATION OF THE LAD

115. Plaintiff **LOUIS MELILLO** repeats and reiterates the allegations set forth in the First through Eighth Counts and makes them, by reference hereto, a part hereof and incorporated herein as though set forth in full and at length.

116. The actions and conduct of Defendant **ELIZABETH BOARD OF EDUCATION** occurred over a period of time, were motivated by Plaintiff's physical limitations, denigrated Plaintiff's physical limitations, and used such physical limitations as an excuse for discipline.

117. Repeated unfavorable comments were made alleging Plaintiff touched himself in public in relation to his itching, a secondary manifestation of his health condition.

118. A reasonable person with Plaintiff's physical limitations would consider these actions and comments sufficiently severe or pervasive to alter the conditions of employment and create an intimidating, hostile or offensive working environment.

119. By reason of the actions complained of, Plaintiff has suffered damages, including reduction in wages, other economic loss, physical injury, pain and

suffering, physical and emotional stress, career, personal, and social disruption and damage to his reputation.

120. The employer's actions, which constitute egregious behavior and/or willful indifference to the rights of Plaintiff and other employees, are sufficient to subject Defendant **ELIZABETH BOARD OF EDUCATION** to punitive damages under the LAD and Lehman v. Toys-R-Us.

***WHEREFORE*,** Plaintiff **LOUIS MELILLO** demands judgment against Defendant **ELIZABETH BOARD OF EDUCATION** jointly, severally, or in the alternative singly and individually for compensatory and consequential damages, punitive damages, Attorney's fees with appropriate enhancement under Rendine v. Pantzer, 141 N.J. 292 (1995); costs of suit, pre-judgment interest; and an award of such other and further relief as the Court may deem just, equitable, and fair.

TENTH COUNT: AIDING AND ABETTING DISCRIMINATION IN VIOLATION OF THE LAD

121. Plaintiff **LOUIS MELILLO** repeats and reiterates the allegations set forth in the First through Ninth Counts and makes them, by reference hereto, a part hereof and incorporated herein as though set forth in full and at length.

122. Defendants aided, abetted, incited, compelled or coerced the doing of the acts forbidden by the New Jersey Law against Discrimination outlined in the preceding Counts of this Complaint.

123. By reason of the actions complained of, Plaintiff has suffered damages, including reduction in wages, other economic loss, physical injury, pain and suffering, physical and emotional stress, career, personal, and social disruption and damage to his reputation.

124. The individual defendants' actions, which constitute egregious behavior and/or willful indifference to the rights of Plaintiff and other employees of Defendants, are sufficient to subject the individual defendants to punitive damages under the LAD and Lehman v. Toys-R-Us.

WHEREFORE, Plaintiff **LOUIS MELILLO** demands judgment against Defendants **PABLO MUÑOZ**, individually and in his official capacity as superintendent of schools, **CARLOS TRUJILLO**, individually and in his official capacity as board member and past President, **MARIE MUNN**, individually and in her official capacity as board president and past vice president, **PASTOR RAÚL BURGOS**, individually and in his official capacity as board member, **ELCY CASTILLO-OSPINA**, individually and in his official capacity as board member, **ARMANDO DA SILVA**, individually and in his official capacity as board member, **JOHN DONOSO**, individually and in his official capacity as board member, **FRANCISCO GONZÁLEZ**, individually and in his official capacity as board member, **FERNANDO NAZCO**, individually and in his official capacity as vice president and past board member, **PAUL M. PERREIRA**, individually and in his official capacity as board member, **KAREN A. MURRAY**, individually and in her official capacity as Executive Director for Human Resources, JOHN/JANE DOES 1- 10 (fictitious names representing Past Board of Education members, names unknown), ABC Corporations 1-10 (fictitious names representing unknown entities), and JOHN/JANE DOES 11-30 (fictitious names representing unknown persons), jointly, severally, or in the alternative singly and individually for compensatory and consequential damages, punitive damages, attorney's fees with appropriate enhancement under Rendine v. Pantzer, 141 N.J. 292 (1995); costs of suit, pre-judgment interest; and an award of such other and further relief as the Court may deem just, equitable, and fair.

ELEVENTH COUNT: PUNITIVE DAMAGES

125. Plaintiff **LOUIS MELILLO** repeats and reiterates the allegations set forth in the First through Tenth Counts and makes them, by reference hereto, a part hereof and incorporated herein as though set forth in full and at length.

126. Defendants committed the acts alleged maliciously, fraudulently, and oppressively, with the wrongful intention of injuring plaintiff, and acted with an improper and evil motive amounting to malice, and in conscious disregard of plaintiff's rights. Because the acts taken towards plaintiff were

carried out by managerial employees acting in a despicable, deliberate, cold, callous, and intentional manner in order to injure and damage plaintiff, plaintiff is entitled to recover punitive damages from defendants in an amount according to proof.

127. The aforesaid Defendants' aforementioned torts set forth in the First through Third Counts were willful and were performed in deliberate disregard of Plaintiffs' rights with evil motive and actual malice sufficient to expose them to punitive damages.

WHEREFORE, Plaintiff **LOUIS MELILLO** demands judgment against Defendants jointly, severally, or in the alternative singly and individually for punitive damages pursuant to federal law and N.J.S.A. 2A:15-5.9 et seq. and costs of the action together with lawful interest, on all Counts.

WRITTEN DEMAND FOR A JURY TRIAL PURSUANT TO FED. R. CIV. P. 38

Plaintiffs hereby demand a trial by jury on all issues.

DESIGNATION OF TRIAL COUNSEL

Matthew T. Rinaldo, Esq., is designated as Trial Counsel.

CERTIFICATION OF NO OTHER ACTION PURSUANT TO CIV. RULE 11.2

I certify that the matter in controversy is not the subject of any other action or proceeding pending in any court or tribunal, nor is there any other action or arbitration proceeding contemplated between the parties hereto.

I further certify that at this time I know of no other parties who should be joined in this action.

Prior, terminated, related actions include the following: State v. Louis Melillo, Indictment No. 04-12-014311, In re Expungement of Louis Melillo, Indictment No. 04-12-014311, State's motion to vacate order of expungement of Louis Melillo granted January 20, 2006, Promis No. 04003537, Louis Melillo v. Board of Education of the City of Elizabeth, EDU-09209-06, DCF/IAIU v. L. M., IAIU Case No.04-8020, DR Case No. 05-178, HSV 01315-07N and In Re Tenure Hearing of Louis Melillo, O.A.L. Docket No. EDU-11502-2004N.

CERTIFICATION OF DAMAGES PURSUANT TO CIV. RULE 201.1

I certify that the matter in controversy exceeds $150,000.

RINALDO AND RINALDO, ESQS.
Attorneys for Plaintiff

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